

## REMARKS

In the Office Action mailed January 26, 2005, the Examiner initially rejected Claims 1, 3-10 and 12 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0138121 to Fox, and Claims 16-25 and 31-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Fox publication. Claims 2, 11, 13-15 and 26-30 were indicated as being allowable if rewritten in independent form to include the limitations of the claims from which they correspondingly depend. Applicant submits that all claims are allowable in their initially filed form.

In this regard, Applicant's undersigned attorney expresses appreciation for the time and courtesy extended during the telephone message exchanges and a brief telephone interview with the Examiner on May 19, 2005 and May 20, 2005, regarding the present application. As communicated by Applicant's attorney, Applicant does not feel that the Fox publication anticipates or otherwise renders obvious any of the pending claims. Further, it is Applicant's understanding that upon further review of the Fox publication, the Examiner is in agreement with the Applicant's position. Per the Examiner's request, the Applicant will summarize the arguments presented during the noted communications for the record.

Independent Claim 1 is directed to a method for inducing mild hypothermia in a patient body, and comprises the steps of positioning a source of ultrasound energy relative to a patient's skull, applying ultrasound energy to a tissue region that at least partially coincides with a preoptic anterior hypothalamus region in the patient's skull to effect thermal regulatory responses of the body, and providing artificial cooling to a portion of the patient body to reduce a core temperature thereof.

Independent Claim 16 of the present invention is directed to a method for providing localized heating to the preoptic anterior hypothalamus of a body to induce mild hypothermia and includes the steps of positioning a source of ultrasound energy relative to a patient's skull, focusing the source of

ultrasound energy on a tissue region in the patient's skull, such tissue at least partially encompassing the preoptic anterior hypothalamus, and applying a predetermined amount of ultrasound energy to the tissue region so as to increase the temperature of the tissue region to heat the preoptic anterior hypothalamus.

In contrast to Independent Claims 1 and 16, the Fox publication fails to disclose, *inter alia*, the application or focusing of ultrasound energy on a tissue region that at least partially coincides with or encompasses the preoptic anterior hypothalamus region of a patient so as to effect thermoregulatory responses or otherwise increase the temperature of the tissue region. Rather, and as pointed out to the Examiner, Applicant submits that the only references in the Fox publication that relate to ultrasound are in relation to maintaining cancerous tissue at or above normal body temperature. See, e.g. page 2, paragraph 11, and page 3, paragraph 23 relating to ultrasound heating of the cancerous prostrate; page 7, paragraph 79 relating to the application of ultrasound radiation for maintaining the temperature of cancerous tissue near to or above normal body temperature; page 9, paragraph 90 relating to the application of ultrasound energy to cancerous prostrate tissue to maintain the tissue at normal body temperature; page 9, paragraph 92 relating to warming of cancerous prostrate tissue using an ultrasound probe; page 12, paragraph 109 relating to the application of ultrasound radiation to increase the temperature of cancerous tissue near to, or above normal body temperature; page 14, paragraph 126, relating to the application of ultrasound radiation to maintain the temperature of cancerous tissue near to or above normal body temperature; page 15, paragraph 134 relating to the application of ultrasound energy to cancerous prostrate tissue; and page 16, paragraph 136 relating to the application of ultrasound energy to cancerous prostrate tissue.

As may be appreciated, none of the noted language in the Fox publication discloses or renders obvious the utilization of ultrasound energy as in the manner noted above in relation to

independent Claims 1 and 16 of the present application. As such, Applicant believes that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

By: 

Thomas R. Marsh  
Registration No. 31,039  
3151 South Vaughn Way, Suite 411  
Aurora, Colorado 80014

Telephone: (303) 338-0997

Facsimile: (303) 338-1514

Date: 5/26/05